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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re:)
)
Implementation of Sections)
Of the Cable Television)
Consumer Protection and)
Competition Act of 1992)
)
RATE REGULATION)

MM Docket No. 92-266

To: The Commission

MOTION FOR EXTENSION OF RATE FREEZE

Duncan, Weinberg, Miller & Pembroke, P.C., a law firm representing various Municipal Franchising Authorities, which have participated in these proceedings, herewith requests that the Commission extend the temporary freeze of cable rates, as set forth in Section 76.900 of the Rules and Regulations, for cable systems having 1,000 or fewer subscribers. In support, the following is shown:

1. The Commission temporarily froze, until February 15, 1994, rates of cable services subject to regulation under the 1992 Cable Act. Rate Freeze Order, 8 FCC Rcd. 2921; clarified, 8 FCC Rcd. 2917; extended, FCC 93-304, 73 RR 2d 14 (1993); further extended, FCC 93-494, 74 RR 2d 13 (released November 10, 1993). The Commission's explained its reason for initially imposing a rate freeze:

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We are concerned that during the period between the adoption of our rules and the date that a local franchising authority can establish regulation of the basic service tier rates, and that consumers can file complaints with the Commission concerning potentially unreasonable rates for cable programming services, cable operators could raise rates, effectively undermining the statutory purpose of reasonable rates pending implementation of our rules. In particular, cable operators would be able to raise rates prior to the initiation of regulation that would otherwise govern their ability to raise rates from existing levels.

Rate Freeze Order, 8 FCC Rcd. at 2921.

2. Separately, in this proceeding, on August 10, 1993, the Commission partially and temporarily stayed its cable television rate regulation rules "with respect to those cable systems with 1,000 or fewer subscribers" (hereafter "Small Systems"), until "the effective date of the Commission's order on reconsideration addressing issues concerning administrative burdens and costs of compliance for small cable systems." Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 93-389, pp. 10-11, 15 (Released August 10, 1993).

3. Accordingly, on February 15, 1994, rates on every cable system may increase above the average monthly subscriber bill determined under rates in effect on April 5, 1993. For cable television systems

with more than 1,000 subscribers, these rate increases will be subject to possible review by franchising authorities and the FCC in accordance with procedures established by the FCC.

4. However, for Small Systems, any rate increases, between February 15 and the day that the partial/temporary stay of rate regulation is lifted, may completely escape review, or rate reductions or refunds may be limited.

5. As to the basic service tier, the rates subject to initial review are those rates in effect on the date that the franchising authority gives notice of its intention to regulate rates. However, no franchising authority can give such notice to a Small System and commence review of its rates for basic service until the stay is lifted.

6. As to the cable programming service tier, rates in effect on September 1, 1993, can be reviewed by the FCC until February 28, 1994. However, a franchising authority or a cable subscriber cannot currently file an FCC Form 329 Complaint against a Small System. Moreover, for any rate increase, a Complaint must be filed within 45 days. Thus, for example, if rates for cable programming service were increased on February 15, 1994, the deadline for filing a Complaint with the FCC would be April 1, 1994. There

is no present assurance that such a Complaint could be filed against a Small System on or before April 1, 1994.

7. So long as rate regulation for Small Systems is stayed, irregularities and inconsistencies in the applicability of the rules could result if the Small Systems are free to raise rates.¹ The better course is for the Commission to extend the Rate Freeze as to Small Systems until it lifts the stay on rate regulation of Small Systems; until Municipal Franchising Authorities have an opportunity to commence rate regulation prior to the date the rate freeze ends, and until consumers can file Complaints with the Commission. The Commission's original rationale for imposing a rate freeze on all cable operators, warrants continuation of the rate freeze for Small Systems.

WHEREFORE, on behalf of Municipal Franchising Authorities, we request that, as to Small Systems, the freeze on regulated cable service rates be extended until the effective date of the Commission's order on reconsideration addressing issues concerning administrative burdens and costs of compliance for

¹ We do not mean to ascribe any bad faith or misconduct to any particular Small System operator. Rather, Municipal Franchising Authorities are simply concerned with possible inconsistencies in the regulatory process resulting from the partial, temporary stay of the Commission's rules, and the imposition and lifting of a rate freeze.

small cable systems, and that Section 76.900(a) of the
Rules and Regulations be amended accordingly.

Respectfully submitted,

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February 4, 1994

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CERTIFICATE OF SERVICE

I, Harold K. McCombs, do hereby certify that
I have caused to be served by hand, this 4th day of
February 1994, copies of the foregoing "Motion For
Extension Of Rate Freeze" on the following:

Alexandra M. Wilson, Chief
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